

ASSEMBLY BILL

No. 1732

Introduced by Assembly Member Stone

February 14, 2014

An act to amend Section 11713 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1732, as introduced, Stone. Vehicles: manufacturers and distributors.

Existing law generally requires a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer of vehicles to be licensed by the Department of Motor Vehicles. Existing law prohibits these licensees from engaging in certain practices, including, failing to, within 48 hours, withdraw in writing an advertisement of a vehicle that has been sold or withdrawn from sale and advertising or representing a vehicle as a new vehicle if the vehicle is a used vehicle. Existing law makes it a crime to violate these provisions.

This bill would additionally prohibit a licensee from advertising a vehicle's prior use or ownership history in an inaccurate manner. By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11713 of the Vehicle Code is amended
2 to read:
3 11713. ~~No~~A holder of ~~any~~ a license issued under this article
4 shall *not* do any of the following:
5 (a) Make or disseminate, or cause to be made or disseminated,
6 before the public in this state, in ~~any~~ a newspaper or other
7 publication, or ~~any~~ an advertising device, or by public outcry or
8 proclamation, or in any other manner or means whatever, ~~any~~ a
9 statement ~~which~~ *that* is untrue or misleading and ~~which~~ *that* is
10 known, or ~~which~~ *that* by the exercise of reasonable care should be
11 known, to be untrue or misleading; or to so make or disseminate,
12 or cause to be so disseminated, ~~any~~ a statement as part of a plan
13 or scheme with the intent not to sell ~~any~~ a vehicle or service so
14 advertised at the price stated therein, or as so advertised.
15 (b) (1) (A) Advertise or offer for sale or exchange in any
16 manner, ~~any~~ a vehicle not actually for sale at the premises of the
17 dealer or available to the dealer directly from the manufacturer or
18 distributor of the vehicle at the time of the advertisement or offer.
19 However, a dealer who has been issued an autobroker's
20 endorsement to his or her dealer's license may advertise his or her
21 service of arranging or negotiating the purchase of a new motor
22 vehicle from a franchised new motor vehicle dealer and may
23 specify the line-makes and models of those new vehicles.
24 Autobrokering service advertisements may not advertise the price
25 or payment terms of ~~any~~ a vehicle and shall disclose that the
26 advertiser is an autobroker or auto buying service, and shall clearly
27 and conspicuously state the following: "All new cars arranged for
28 sale are subject to price and availability from the selling franchised
29 new car dealer."
30 (B) As to printed advertisements, the disclosure statement
31 required by subparagraph (A) shall be printed in not less than
32 10-point bold type size and shall be textually segregated from the
33 other portions of the printed advertisement.
34 (2) Notwithstanding subparagraph (A), classified advertisements
35 for autobrokering services that measure two column inches or less

1 are exempt from the disclosure statement in subparagraph (A)
2 pertaining to price and availability.

3 (3) Radio advertisements of a duration of less than 11 seconds
4 that do not reference specific line-makes or models of motor
5 vehicles are exempt from the disclosure statement required in
6 subparagraph (A).

7 (c) Fail, within 48 hours, ~~in writing~~ to withdraw ~~any~~ *in writing*
8 an advertisement of a vehicle that has been sold or withdrawn from
9 sale.

10 (d) Advertise or represent a vehicle as a new vehicle if the
11 vehicle is a used vehicle.

12 (e) Engage in the business for which the licensee is licensed
13 without having in force and effect a bond as required by this article.

14 (f) Engage in the business for which the dealer is licensed
15 without at all times maintaining an established place of business
16 as required by this code.

17 (g) Include, as an added cost to the selling price of a vehicle,
18 an amount for licensing or transfer of title of the vehicle, which is
19 not due to the state unless, prior to the sale, that amount has been
20 paid by a dealer to the state in order to avoid penalties that would
21 have accrued because of late payment of the fees. However, a
22 dealer may collect from the second purchaser of a vehicle a
23 prorated fee based upon the number of months remaining in the
24 registration year for that vehicle, if the vehicle had been previously
25 sold by the dealer and the sale was subsequently rescinded and all
26 the fees that were paid, as required by this code and Chapter 2
27 (commencing with Section 10751) of *Part 5* of Division 2 of the
28 Revenue and Taxation Code, were returned to the first purchaser
29 of the vehicle.

30 (h) Employ ~~any~~ a person as a salesperson who has not been
31 licensed pursuant to Article 2 (commencing with Section 11800),
32 and whose license is not displayed on the premises of the dealer
33 as required by Section 11812, or willfully fail to notify the
34 department by mail within 10 days of the employment or
35 termination of employment of a salesperson.

36 (i) Deliver, following the sale, a vehicle for operation on
37 California highways, if the vehicle does not meet all of the
38 equipment requirements of Division 12 (commencing with Section
39 24000). This subdivision does not apply to the sale of a leased
40 vehicle to the lessee if the lessee is in possession of the vehicle

1 immediately prior to the time of the sale and the vehicle is
2 registered in this state.

3 (j) Use, or permit the use of, the special plates assigned to him
4 or her for any purpose other than as permitted by Section 11715.

5 (k) Advertise or otherwise represent, or knowingly allow to be
6 advertised or represented on behalf of, or at the place of business
7 of, the licenseholder that no downpayment is required in connection
8 with the sale of a vehicle when a downpayment is in fact required
9 and the buyer is advised or induced to finance the downpayment
10 by a loan in addition to any other loan financing the remainder of
11 the purchase price of the vehicle. The terms “no downpayment,”
12 “zero down delivers,” or similar terms shall not be advertised
13 unless the vehicle will be sold to ~~any~~ a qualified purchaser without
14 a prior payment of any kind or trade-in.

15 (l) Participate in the sale of a vehicle required to be reported to
16 the Department of Motor Vehicles under Section 5900 or 5901
17 without making the return and payment of the full sales tax due
18 and required by Section 6451 of the Revenue and Taxation Code.

19 (m) Permit the use of the dealer’s license, supplies, or books by
20 any other person for the purpose of permitting that person to engage
21 in the purchase or sale of vehicles required to be registered under
22 this code, or permit the use of the dealer’s license, supplies, or
23 books to operate a branch location to be used by any other person,
24 whether or not the licensee has any financial or equitable interest
25 or investment in the vehicles purchased or sold by, or the business
26 of, or branch location used by, the other person.

27 (n) Violate any provision of Article 10 (commencing with
28 Section 28050) of Chapter 5 of Division 12.

29 (o) Sell a previously unregistered vehicle without disclosing in
30 writing to the purchaser the date on which ~~any~~ a manufacturer’s
31 or distributor’s warranty commenced.

32 (p) Accept a purchase deposit relative to the sale of a vehicle,
33 unless the vehicle is present at the premises of the dealer or
34 available to the dealer directly from the manufacturer or distributor
35 of the vehicle at the time the dealer accepts the deposit. Purchase
36 deposits accepted by an autobroker when brokering a retail sale
37 shall be governed by Sections 11736 and 11737.

38 (q) Consign for sale to another dealer a new vehicle.

39 (r) Display a vehicle for sale at a location other than an
40 established place of business authorized by the department for that

1 dealer or display a new motor vehicle at the business premises of
2 another dealer registered as an autobroker. This subdivision does
3 not apply to the display of a vehicle pursuant to subdivision (b) of
4 Section 11709 or the demonstration of the qualities of a motor
5 vehicle by way of a test drive.

6 (s) Use a picture in connection with ~~any~~ *an* advertisement of
7 the price of a specific vehicle or class of vehicles, unless the picture
8 is of the year, make and model being offered for sale. The picture
9 shall not depict a vehicle with optional equipment or a design not
10 actually offered at the advertised price.

11 (t) Advertise a vehicle for sale that was used by the selling
12 licensee in its business as a demonstrator, executive vehicle, service
13 vehicle, rental, loaner, or lease vehicle, unless the advertisement
14 clearly and conspicuously discloses the previous use made by that
15 licensee of the vehicle. An advertisement shall not describe any
16 of those vehicles as “new.”

17 (u) *Advertise the prior use or ownership history of a vehicle in*
18 *an inaccurate manner.*

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.